



HISTORICAL OVERVIEW

For close to a century, the Arizona State Land Department has managed State Trust Lands. These lands were granted by the Federal Government to Arizona at the time of its establishment as a territory in 1863; additional lands were conveyed upon statehood under the Enabling Act of 1910. Arizona created the Land Department as a condition of statehood, and accepted the responsibility of State Trust Land management. Today, the Trust controls approximately 9.3 million acres, representing 13% of all land in Arizona, and all revenue produced for the 13 Trust beneficiaries.

It is the Land Department's responsibility, on behalf of the beneficiaries, to assure the highest and best use of State Trust Lands. The Federal Enabling Act and State Constitution mandate that a fair market value must be obtained from all State Trust Land transactions. Reflected in the unique properties offered for sale or lease throughout the State, the Trust's diversity of lands has always been its most valuable resource.

COMMERCIAL LEASING

State Trust Lands are leased for a variety of commercial purposes, including retail, industrial, office, and mixed uses. State Trust Land's advantage is its exemption from State and local property tax, although the lessee is responsible for property taxes on the improvements. Lessees may be entitled to reimbursement by a subsequent lessee, or purchaser for improvements placed on State Trust Land.

State law provides two types of leases, "short term" leases of 10 years or less, and "long term" leases. A particular commercial operation merits a short or long term lease depending upon the proposed use and the improvements required.

EVALUATION CRITERIA

All State Trust Land transactions must be in accordance with the State's mandate to assure the highest and best use of the land, and to act in the best interest of the Trust. The leasing process is initiated by an application, completed by the applicant in consultation with Department staff, and filed with the Land Department. Submission of an application does not guarantee that the land will be leased. The Trust cannot subsidize development for any purpose, no matter how commendable, at the expense of its beneficiaries. When reviewing a lease application, the Land Department will take into consideration: the viability

ARIZONA STATE LAND DEPARTMENT Commercial Leasing

and income potential of the proposed use; financial capability; extent of improvements necessary to the use; compatibility with surrounding uses; local land use; planning and zoning; access; hydrology; geology; archaeology and environmental implications.

All commercial leases of State Trust Land must be approved by the Board of Appeals, an independent body of 5 members, appointed by the Governor. The Land Department is authorized to pay commissions to Arizona licensed real estate brokers.

LONG TERM LEASES

Leases in excess of 10 years and up to 99 years are considered long term leases, and must be offered at a public auction. If the application is approved, terms, conditions and rents are established, and the lease is presented to the Board of Appeals. Upon Board approval, the legal auction notice is advertised consecutively in two publications for a 10-week period, prior to the public auction. Bidding is based upon the appraised land value, and the minimum required at auction is the first year's rent and any additional fees, as reflected in the legal auction notice. The lease is offered to the highest and best bidder. The value for reimbursement of any improvements is amortized in the lease.

COMMERCIAL LEASE PROCEDURES AND FEES

An Application Addendum, signed and dated by the Real Estate Division, must accompany any new application for long term lease. If the Application Addendum does not accompany the application, or if it is not signed and dated, or if the application is not submitted within 90 days of the Application Addendum Conference date, the application will be rejected. Generally speaking, the application will require the following:

1. Legal Description: A new application must contain the township, range, section, description, acreage and county where the land is located. An ALTA land survey may be required as part of the application process.

2. Development and Improvements: If development and improvements are considered, a conceptual site plan should be included with the application. The applicant may be required to furnish documented business plans, and provide other detailed information regarding the proposed operation. Approval of the lease application does not constitute approval of any improvements. An application to place improvements must be submitted after the lease is issued, unless the lease document authorizes construction. Temporary or removable structures are not considered to be improvements.

3. Appraised Rent: All State Trust Land transactions must

be in accordance with the State's responsibility to receive an appropriate return to the Trust beneficiaries. Taking into consideration the risks associated with the proposed use, rent is typically based upon a percentage of appraised land value, value of improvements, and/or gross receipts. The Land Department will use property appraisals, the applicant's pro forma, and market information to arrive at a fair market price.

4. Additional Expenses: Depending on the location of the land applied for, the proposed use, and type of lease, there may be additional costs incurred, and are the responsibility of the applicant. These may include, but are not limited to: ALTA Land Survey; Archaeological Survey; Geotechnical Report; Infrastructure Analysis Report; Phase I Environmental Assessment Report and Appraisal Report. The applicant may be required to front these costs, which may be reimbursed, upon approval of the Land Commissioner, in the event that the applicant is not the successful bidder at an auction.

5. Selling and Administrative Fee / Broker Commission

- Long Term Leases Only: The Land Department is authorized to pay commissions to Arizona licensed real estate brokers. The Land Commissioner determines the broker commission, up to a maximum of \$500,000 to be paid from the Selling and Administrative Fees collected the day of auction. The fees calculated will not exceed 3% of the cumulative base rents for the first 15 years of the lease. Any bonus bid amount shall be included in the computation of the first 15 years rental. Any Selling and Administrative Fees in excess of the brokerage commission paid will be retained by the Land Department for deposit in the General Fund. Commissions will not be paid to the broker until the lease is officially issued to the successful bidder. When reimbursable improvements are included, the successful bidder must also pay a 2% Selling and Administrative Fee on the first \$250,000 of the appraised value of the improvements. No broker commission is paid on the appraised value of the improvements.

6. Processing Time: The complexity and terms of the lease are determining factors in the length of time it takes to process an application. Processing times vary from 6 months; for a short term lease, and upwards of 2 years for completion of a long term lease auction.

Since application fees are not refundable, the Department requires a Preliminary Application Conference before submitting your application. Please schedule a conference by contacting the State Land Department's Real Estate Division at (602) 542-3000 to discuss the property and your interests with an administrator.

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